

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON**

**ASIA PACIFIC AGRICULTURAL AND  
FORESTRY COMPANY,**  
a Hong Kong corporation,

Counter Defendant Cross Claimant,

v.

**SESTER FARMS, INC.,**  
an Oregon corporation,

Counter Claimant and Cross Defendant.

Case No. 3:12-cv-00936-PK

**ORDER**

Eric K. Helmy, Northwest Business Law Group, LLC, 1300 S.W. Park Avenue #1009, Portland, OR 97201. Attorney for Plaintiff.

Peter C. Richter, Bruce A. Rubin, Steven G. Liday, Jr., and Jeffrey T. Sagalewicz, Miller Nash LLP, 3400 US Bancorp Tower, 111 S.W. Fifth Avenue, Portland, OR 97204. Attorneys for Defendant.

**Michael H. Simon, District Judge.**

United States Magistrate Judge Paul Papak issued Findings and Recommendation in this case on October 30, 2013. Dkt. 74. Judge Papak recommended that Sester Farms, Inc.’s (“Sester”) petition for attorney’s fees (Dkt. 60) should be granted, and that Sester should be awarded its reasonably incurred fees and costs in the total amount of \$44,637.43. No party has filed objections.

Under the Federal Magistrates Act (“Act”), the court may “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court

shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report[.]”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (the court must review *de novo* magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Papak’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Papak’s Findings and Recommendation (Dkt. 74). Sester’s motion for attorney’s fees (Dkt. 60) is **GRANTED**. Sester is awarded its reasonably incurred fees and costs in the total amount of \$44,637.43.

**IT IS SO ORDERED.**

DATED this 22nd day of November, 2013.

/s/ Michael H. Simon  
Michael H. Simon  
United States District Judge